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INFO OCT-01 ARA-11 ADS-00 SR-05 CIAE-00 DODE-00 PM-05  
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FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC IMMEDIATE 145  
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E.O. 12065: RDS- 4-12-99 (CASTRO, RAUL) OR-M  
TAGS: SHUM AR  
SUBJ: (U) HUMAN RIGHTS ASSESSMENT - APRIL 1979

REFS: A) BUENOS AIRES 1189; B) BUENOS AIRES 2501

1. [REDACTED] - ENTIRE TEXT)

2. SUMMARY: OVER THE PAST EIGHT WEEKS WE HAVE SEEN BASIC REFORMS IN THE OPERATIONS OF THE SECURITY FORCES WHICH HAVE RESULTED IN A SHARP REDUCTION OF HUMAN RIGHTS ABUSES. THE ELIMINATION OF ABDUCTIONS HAS BROUGHT WITH IT THE ELIMINATION OF MURDER OF SUSPECTS AND AT LEAST MAJOR REDUCTION IN TORTURE OF SUSPECTS. THE COURTS CONTINUE TO ASSERT THEIR AUTHORITY AND INDEPENDENCE, AND A NUMBER OF CHANGES ARE TAKING PLACE IN THE HANDLING OF PEN PRISONERS IN ANTICIPATION OF THE IAHRC VISIT. THE PAST THREE MONTHS HAVE SEEN MAJOR CHANGES IN THE HUMAN RIGHTS SITUATION, AND VIRTUAL ELIMINATION OF THE MOST EXTREME ABUSES. END SUMMARY

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3. DISAPPEARANCES STOP -

THE REDUCTION IN DISAPPEARANCES, WHICH WE VIEWED WITH

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ARGENTINA PROJECT (S200000044)  
U.S. DEPT. OF STATE, A/RPS/IPS  
Margaret P. Grafeld, Director  
☒ Release ☐ Excise ☐ Deny  
Exemption(s):  
Declassify: ☐ In Part ☒ In Full  
☐ Classify as ☐ Extend as ☐ Downgrade to  
Date ☐ Declassify on ☐ Reason

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CONSIDERABLE CAUTION IN REF A, HAS TURNED INTO AN ELIMINATION OF DISAPPEARANCES. ON TWO RECENT OCCASIONS WHEN DISAPPEARANCES WERE ALLEGED, CALLS BY THE AMBASSADOR TO GENERAL VIOLA HAVE PRODUCED REPLIES THAT THE INDIVIDUALS WERE BEING HELD AT THE ORDERS OF CIVIL JUSTICE. IT IS PROBABLY MORE THAN COINCIDENTAL THAT THE HALTING OF ABDUCTIONS COINCIDED WITH THE TRANSFER OF CORPS AND INDIVIDUAL UNIT COMMANDERS. WE HAVE LONG CONTENDED THAT FOR MAJOR IMPROVEMENTS IN THE HUMAN RIGHTS SITUATION, THE OPERATIONAL METHODS OF THE SECURITY FORCES MUST BE CHANGED. WHILE WE HAD BEEN TOLD REPEATEDLY OVER PAST MONTHS THAT SECURITY FORCES WERE PROHIBITED FROM CARRYING OUT ABDUCTIONS AND MUST HENCEFORTH ARREST AND DETAIN PRISONERS ACCORDING TO LAW, WE VIEWED THESE REPORTS WITH THE SKEPTICISM BORN OF EXPERIENCE, TOGETHER WITH SOME DOUBT AS TO WHETHER THE GOVERNMENT COULD REFORM THE PRACTICES EVEN IF DETERMINED TO DO SO.

THE GOA'S CLAIM THAT ITS PRACTICES HAVE CHANGED IS CONFIRMED BY EVENTS OF THE PAST TWO MONTHS. HALTING ABDUCTIONS IS DIRECTLY RELATED TO HALTING MURDERS AND TORTURE. IN ONLY ONE POSSIBLE RECENT CASE HAS A SUBJECT DISAPPEARED (AND PRESUMABLY BEEN MURDERED) ONCE HE HAS SURFACED IN THE JAIL OR PRISON POPULATION. LIKEWISE, PRISONERS WHO ASSERT THEY WERE TORTURED, WITH FEW EXCEPTIONS, SAY IT OCCURRED ONLY WHILE BEING QUESTIONED PRIOR TO BEING SURFACED IN A REGULAR PRISON. IF THE CURRENT SITUATION CAN BE MAINTAINED, THE GREAT MAJORITY OF THE WORST PRIMARY VIOLATIONS OF THE INTEGRITY OF THE INDIVIDUAL WHICH WERE SO COMMON IN ARGENTINA WILL HALT.

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THERE EXISTS A RANGE OF OPINION ON WHETHER DISCIPLINE IN THE ARMED FORCES AND POLICE IS GOOD ENOUGH TOTALLY TO AVOID UNLAWFUL SEIZURES. THERE WILL STILL BE STRONG TEMPTATIONS ON THE LOCAL LEVEL TO REVERT TO OLD METHODS OF DISPOSING OF SUSPECTED OPPOSITION. WE BELIEVE THERE IS MOST GROUND FOR CONCERN ON THIS SCORE WITH THE POLICE, BOTH FEDERAL AND PROVINCIAL, WHO HAVE TRADITIONALLY HAD A BAD RECORD FOR ENGAGING IN A WIDE RANGE OF CRIMINAL ACTIVITIES, PARTICULARLY KIDNAPPING FOR RANSOM. THE MILITARY ARE FAR MORE AMENABLE TO FIRM DISCIPLINE. WITH REGARD TO ALLEGED ABDUCTIONS, IT SHOULD BE NOTED THAT ARGENTINE CONSTITUTIONALLY AUTHORIZED POLICE PRACTICE PERMITS ANY SUSPECTED CRIMINAL TO BE HELD INCOMMUNICADO

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FIVE DAYS BEFORE THE SUSPECT CAN CALL HIS ATTORNEY. IN ORDINARY CRIMINAL PRACTICE, POLICE MAY OR MAY NOT INFORM FAMILY OF WHEREABOUTS OF AN ARRESTED SUSPECT.

PROVIDED THE GOA CAN MAINTAIN THE PRESSURE TO BAN ABDUCTIONS - AND THE IMMINENCE OF THE IAHRC VISIT CONTRIBUTES TO THIS EFFORT -- THE BLACKEST PHASE OF ARGENTINA'S REACTION TO TERRORISM SHOULD BE PAST. THOUGH IT DOES NOT MERIT PRAISE, WE BELIEVE THIS IS A MILEPOST THAT SHOULD BE TAKEN INTO ACCOUNT IN DEALING WITH THE GOA. THE REMAINING REFORMS SHOULD BE RELATIVELY LESS DIFFICULT POLITICALLY, AND FASTER PROGRESS COULD BE POSSIBLE. (TWO REPORTS OF MARCH DISAPPEARANCES RECEIVED AFTER THIS WAS DRAFTED ARE BEING INVESTIGATED AND HAVE BEEN RAISED WITH THE GOA.)

#### 4. THE ROLE OF THE COURTS -

THE COURTS CONTINUE TO ASSERT THEIR AUTHORITY, AND THE GOVERNMENT, IN SOME CASES, SUCH AS PRESIDENT VIDELA'S ANNIVERSARY SPEECH, GIVES SUPPORT TO THEIR INDEPENDENCE. FOR THE MAN IN THE STREET THE MOST SIGNIFICANT EVENT WAS THE BERRUETA CASE, IN WHICH AN ARMY NCO CHARGED WITH BRANDISHING A PISTOL WAS FORCIBLY TAKEN FROM A CIVIL JAIL BY THE ARMY. AFTER A SUPREME COURT ORDER, HE WAS RETURNED

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TO CIVIL CONTROL. THAT BERRUETA WAS SHORTLY THEREAFTER LET OUT ON BAIL DID NOT DETRACT FROM THE FACT THE MILITARY WERE SEEN TO RESPOND TO JUDICIAL AUTHORITY. THE AMOUNT OF PRESS AND PUBLIC INTEREST IN THE INDEPENDENCE OF THE JUDICIARY AND THE RULE OF LAW HAS INCREASED VASTLY IN THE PAST YEAR. THE AMOUNT OF CURRENT SUPPORT FOR THE

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FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC IMMEDIATE 146  
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JUDICIARY MUST BE MEASURED AGAINST THE DISCREDITED STATE OF THE COURTS THREE YEARS AGO, WHEN THEY WERE SEEN AS HELPLESS IN THE FACT OF DETERMINED TERRORISM. NOW THAT TERRORISM IS NO LONGER A THREAT, THE COURTS PROBABLY HAVE SUFFICIENT CONFIDENCE TO DEAL WITH WHAT ARE SEEN AS SIMPLER ISSUES. MANY ARGENTINE LAYWERS AND JUDGES ARE INTENSELY AWARE THAT THEIR ARCHAIC POORLY FINANCED JUDICIAL SYSTEM IS SIMPLY NOT UP TO THE CHALLENGES OF MODERN ARGENTINA. THE COURT SYSTEM HERE WILL NEED A LOT OF REFORM AND MORE SUPPORT BEFORE IT CAN BEAR THE SAME RESPONSIBILITIES SHOULDERED BY THE US COURTS.

5. PRISONER TREATMENT -

REF B REPORTED THE ACTIVITIES OF THE MINISTRIES OF JUSTICE AND INTERIOR TO IMPROVE TREATMENT OF PEN PRISONERS AND TO REDUCE THEIR NUMBERS. THIS ACTIVITY SEEMS TO BE MOST DIRECTLY RELATED TO THE IAHRC VISIT. ICRC PRISON VISITS ARE CONTINUING ON A REGULAR BASIS AND WE ARE TOLD BY THE ICRC THAT PROPOSED REFORMS, IF ADOPTED, WILL FURTHER IMPROVE PRISONER TREATMENT.

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IT IS OUR ASSESSMENT THAT THE GOA IS ONLY BEGINNING TO COME TO GRIPS WITH THE ISSUES INVOLVED WITH PEN PRISONERS, AND THE BROADER PROBLEM OF THOSE JAILED UNDER VARIOUS REGIMES FOR REAL OR SUSPECTED SUBVERSIVE ACTIVITY. FROM OUR DISCUSSIONS WITH THE MINISTRY OF INTERIOR AND WITH MILITARY COMMANDERS THERE APPEARS TO BE A WIDE RANGE OF OPINION ON TREATMENT OF SUSPECTED SUBVERSIVES. THOSE CLOSEST TO THE SUBJECT IN THE MINISTRY OF INTERIOR SEEM TO BE COMING TO THE OPINION THAT THE PRISONERS SHOULD BE SCREENED AND ALL THOSE WHO ARE NOT CLEARLY A THREAT TO ORDER SHOULD BE RELEASED, WHILE THE HARDLINERS OBJECT TO ANY RELEASES. AT THIS POINT THERE IS NO MECHANISM

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OR MOTIVATION TO RECONCILE THESE VIEWS, BEYOND THE IAHR VISIT.

THE RIGHT OF OPTION/DETAINEE PROGRAM SEEMS TO BE THE VICTIM OF THIS UNRESOLVED CONFLICT WITHIN THE GOA. WHILE WE HAVE BEEN TOLD THAT THE ARRESTING AUTHORITIES' VETO OVER GRANTING RIGHT OF OPTION HAS BEEN ELIMINATED, THIS HAS NOT YET MADE ANY DIFFERENCE IN PRACTICE. APPLICANTS FOR PAROLE TO THE US ARE NOT BEING GRANTED RIGHT OF OPTION IN THE NUMBERS WHICH WE SHOULD REASONABLY EXPECT. THE AMBASSADOR HAS COMPLAINED OF THIS TO GENERAL VIOLA, BUT THAT HAS NOT YET PRODUCED MOVEMENT. WE SUSPECT THAT GIVEN THE DIVISION WITHIN THE MILITARY ON THE QUESTION OF EMPTYING THE PRISONS OF BORDERLINE SUBVERSIVE CASES, DIRECT PRESSURE TO MOVE AHEAD WITH THE RIGHT OF OPTION PROGRAM MAY BE LESS PRODUCTIVE THAN EFFORTS TO GET THE GOA TO COPE WITH THE DETAINEE QUESTION AS A WHOLE. SO, THE EMBASSY BELIEVES WE SHOULD NOW ADOPT AS OUR FIRST PRIORITY POLICE OBJECTIVE THE FAIR TRIAL, RIGHT OF OPTION OR RELEASE OF THOSE INDIVIDUALS WHO ARE BEING HELD ON SUBVERSIVE GROUNDS.

6. CLANDESTINE PRISONS -  
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THE EMBASSY IS NOW MAKING A MAJOR EFFORT TO RESOLVE SHARPLY CONFLICTING REPORTS ABOUT THE EXISTENCE OF CLANDESTINE PRISONS. THE RESULTS OF THE EFFORTS OF ALL MISSION ELEMENTS TO OBTAIN AND WEIGH EVIDENCE ON THIS TOPIC WILL BE SUBMITTED BY APRIL 15.

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